

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HOWARD CRUMP,

Plaintiff,

vs.

EDMI No. 10-cv-13787
6th Cir. No. 12-1443
Hon. Gerald E. Rosen

AMY BEST, et al.,

Defendants.

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ORDER DENYING CERTIFICATION OF GOOD FAITH APPEAL

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on March 22, 2013

PRESENT: Honorable Gerald E. Rosen
United States District Chief Judge

On March 27, 2012, this Court adopted the Magistrate Judge's two detailed Reports and Recommendations of March 5, 2012 and entered an Opinion and Order and Judgment granting Defendants' Motion for Summary Judgment and dismissing Plaintiff's Complaint in this prisoner civil rights action, in its entirety. On April 6, 2012, Plaintiff filed a Notice of Appeal. Though he did not do so in this Court, on May 31, 2012, Plaintiff filed an application for leave to proceed on appeal *in forma pauperis* in the Court of Appeals. The appellate court now asks this Court whether it will certify that the appeal could be taken in good faith.

Under 28 U.S.C. §1915(a), "an appeal may not be taken *in forma pauperis* if the [district] court certifies in writing that it is not taken in good faith." The good faith

standard is an objective one. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). The test under 28 U.S.C. § 1915(a) for whether an appeal is taken in good faith is whether the litigant seeks appellate review of any issue that is not frivolous. *Id.* The Supreme Court has further defined a “frivolous” action as one that “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 109 S.Ct. 1827, 1831 (1989).

For the reasons stated in the Magistrate Judge’s Reports and Recommendations, in which this Court has concurred and adopted, Plaintiff’s § 1983 civil rights claims are factually and legally deficient. This Court, therefore, makes the finding that Plaintiff’s claims are frivolous because they lack an arguable basis in law or fact. This finding compels the conclusion that an appeal would not be taken in good faith.

It is therefore CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal in this matter by Plaintiff would not be taken in good faith.

SO ORDERED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: March 22, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 22, 2013, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5135